

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SORRELL HOMES, INC.,

Plaintiff,

v.

DOUGLASS R. STILES CO. LLC AND
DOUGLASS R. STILES,

Defendants.

Civil Action
No. 04-CV10260 WGY

**PLAINTIFF’S MOTION FOR LEAVE TO CONDUCT POST-JUDGMENT
DISCOVERY OR, IN THE ALTERNATIVE, FOR AN ORDER TO SHOW CAUSE WHY
DEFENDANTS SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATING
PERMANENT INJUNCTION**

Plaintiff Sorrell Homes, Inc. (“Sorrell Homes”) hereby moves that this Court permit it to conduct post-judgment discovery to investigate an apparent lease arrangement that appears to be at odds with the permanent injunction issued by the Court in this copyright infringement action enjoining defendants from “selling, leasing, renting, conveying, or using in any way the Infringing House.” Sorrell Homes moves in the alternative for an Order that defendants show cause why they should not be held in contempt for violating the Court’s injunction Order. It is Sorrell Homes’ position, however, that discovery may better serve the interests of judicial economy at this time because, although there is good reason to at least suspect that a violation of the injunction has occurred, Sorrell Homes has been unable through informal channels to obtain the necessary clear and convincing evidence sufficient to demonstrate an act of contempt. *See Gemco Latinoamerica v. Seiko Time Corp.*, 61 F.3d 94, 98 (1st Cir. 1995) (contempt “must be established by clear and convincing evidence”).

As set forth in more detail in the accompanying affidavit of Joseph F. Hardcastle, there is reason to believe that defendants have leased the Infringing House to third party tenants, but

Sorrell Homes has been unable to obtain documentation of the nature and timing of the lease arrangement, largely, it appears, because defendants have instructed the tenants to not disclose such information.

WHEREFORE, Sorrell Homes respectfully requests leave to conduct post-judgment discovery regarding a possible violation of the permanent injunction, or, in the alternative, that the Court issue an Order that defendants show cause why they should not be held in contempt for violating the Court's injunction Order.

SORRELL HOMES, INC.

By its attorneys,

/s/ Joseph F. Hardcastle
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